

OFFICIAL GOVERNMENT OF GOA GAZETTE

EXTRAORDINARY

GOVERNMENT OF GOA

Department of Industries

Notification

3-67-2006-IND

In exercise of the powers conferred by section 30, read with sub-section (3) of section 21 of the Micro, Small and Medium Enterprises Development Act, 2006 (Central Act 27 of 2006), the Government of Goa hereby makes the following rules, namely:—

1. *Short title and commencement.*— (1) These rules may be called the Goa Micro, Small and Medium Enterprises Development Rules, 2007.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. *Definitions.*— In these rules, unless the context otherwise requires:—

(a) “Act” means the Micro, Small and Medium Enterprises Development Act, 2006 (Central Act 27 of 2006);

(b) “Arbitration and Conciliation Act” means the Arbitration and Conciliation Act, 1996 (Central Act 26 of 1996);

(c) “Council” means the Micro and Small Enterprises Facilitation Council established by the Government under section 20 of the Act;

(d) “Chairperson” means the Chairperson of the Council;

(e) “Government” means the Government of Goa;

(f) “Institution or Centre” means any institution or centre as referred to in sub-section (2) and (3) of section 18 of the Act which is providing alternate dispute resolution services;

(g) “Member” means member of the Council;

(h) “Reference” means a reference to the Council under section 18 of the Act;

(i) “section” means a section of the Act.

Words and expressions used but not defined in these rules shall have the same meaning respectively assigned to them in the Act.

3. Membership of Council, manner of filling vacancies and term of office of members of the Council.—

(1) The Government shall appoint the representative, specified in clauses (ii), (iii) and (iv) of sub-section (1) section 21 of the Act,— as members of the Council, by notification in the Official Gazette.

(2) When a member of the Council dies or resigns or is removed from office or becomes incapable of acting as a member, the Government may, by notification in the Official Gazette, appoint another person in his place to fill that vacancy.

(3) A member, other than the Chairperson of the Council, shall hold office for a period not exceeding two years from the date of his appointment.

(4) A member appointed under clauses (ii), (iii) or (iv) of sub-section (1) of section 21 of the Act

shall cease to be a member of the Council if he ceases to represent the body or category or interest from which he was so appointed or he ceases to be its member.

(5) Any member of the Council may resign from the Council by tendering one month's notice in writing to the Government. The power to accept the resignation of a member shall vest in the Government.

4. *Disqualification from membership of the Council.*— A person shall be disqualified for being a member of the Council if,—

(a) he has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force; or

(b) he is an undischarged insolvent; or

(c) he has been convicted by a court of Law of an offence which, in the opinion of the Government, involves moral turpitude; or

(d) he has acquired such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his functions as a member; or

(e) he is removed from the Council in terms of rule 5 of these rules for the remaining term of the Council.

5. *Removal of member from the Council.*— The Government may remove any member of the Council if,—

(a) he becomes of unsound mind and stands so declared by a competent Court; or

(b) he becomes bankrupt or insolvent or suspends payment to his creditors; or

(c) he is convicted of an offence which is punishable under the Indian Penal Code (Act XLV of 1860) or under any Criminal Law for the time being in force, or

(d) he absents himself from three consecutive meetings of the Council without the leave of the Chairperson of the Council; or

(e) he acquires such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his function as a member.

6. *Meetings of the Council.*— (1) The Council shall meet at least once in month.

(2) The meeting of the Council shall be chaired by the Chairperson of the Council and in absence it shall be chaired by the person nominated by the Chairperson from amongst the members of the Council.

(3) Two third of the members of the Council shall form the quorum and in absence of the quorum, the meeting shall be adjourned for half an hour after which the meeting shall be held with the members present who shall form the quorum.

(4) At least seven day's notice shall ordinarily be given for any meeting. However, in case of urgency, a meeting may be called at such shorter notice, as the Chairperson may consider sufficient.

(5) Any decision of the Council shall be taken by a majority of its members present at the meeting of the Council.

(6) The Chairperson or any other officer authorized by the Chairperson shall forward the proceedings of every meeting of the Council including annual progress report of the Council to the member-Secretary of any Advisory Committee constituted under sub-section (2) of section 7 of the Act.

7. *Procedure to be followed in the discharge of functions of the Council.*— (1) The aggrieved micro or small enterprise supplier shall make a reference to the Council by simultaneously endorsing a copy of such reference to the buyer or buyers against whom the reference is made.

(2) The reference shall contain full particulars of the supplier and his status, goods supplied or services rendered, terms of payment, if any agreed between the supplier and buyer, actual payment received with date, amount due and the interest duly calculated under section 16 of Act, supported by an affidavit, with necessary Court fee stamp affixed thereon.

(3) The reference shall be acknowledged forthwith if it is delivered in the office of the Council. Where the reference is received by registered post, its receipt shall be acknowledged on the same day.

(4) The Chairperson shall cause the buyer to furnish his detailed response to the reference

within fifteen days from the date of receipt of the reference by the buyer or within such further time not exceeding fifteen days, as he may, for sufficient cause, allow.

(5) On receipt of a response, the Chairperson shall cause the reference and the response thereto to be examined and upon being satisfied that the reference is above a prima facie case of delayed payment, cause the reference to be placed before the Council at its next immediate meeting for consideration.

(6) The Chairperson shall also ensure that each reference received within two weeks from the date of the last preceding meeting of the Council is examined and, if found in order, is placed for consideration of the Council at its next immediate meeting.

(7) The Chairperson may require the supplier to provide further particulars of the claim or any relevant documents in support of the claim, as he may consider necessary for the purpose of the proceedings.

(8) If the supplier fails or omits to do so within fifteen days of receipt of such communication or within such further time as the Chairperson may, for sufficient cause/allow, the Council may close the proceedings without prejudice to the right of the supplier to make a fresh reference, if he is otherwise entitled to do so.

(9) On receipt of a reference, the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of section 65 to 81 of the Arbitration and Conciliation Act, shall apply to such a reference as if the conciliation was initiated under Part III of that Act.

(10) The Council shall require the supplier and the buyer concerned to appear before it by issuing notices to both the parties in this behalf. On the appearance of both the parties, the Council shall first make efforts to bring about conciliation between the buyer and the supplier.

(11) When the conciliation initiated is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer it to any institution or centre as stated in sub-section (3) of section 18 of the Act.

(12) The supplier or the buyer may, either in person or through his pleader present his case before the Council during the arbitration proceeding.

(13) The Council shall make arbitral award in accordance with section 31 of the Arbitration and Conciliation Act and within the time specified in sub-section (5) of section 18 of the Act. The award shall be stamped in accordance with the relevant law in force. Copies of the award shall be made available within seven days of filling of an application.

(14) The Council may appoint or engage the services of one or more experts in terms of section 26 of the Arbitration and Conciliation Act.

(15) The Council, or a party to the dispute, with the approval of the Council, may apply to the Court under section 27 of the Arbitration and Conciliation Act, for assistance in taking evidence.

By order and in the name of the Governor
of Goa.

Hanumant T. Toraskar, Under Secretary
(Industries).

Porvorim, 13th July, 2007.